

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

MARTINO O'BRYANT,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 4:08-CV-1884-CAS
	)	
METROPOLITAN ST. LOUIS	)	
PSYCHIATRIC CENTER, et al.,	)	
	)	
Defendants.	)	

**MEMORANDUM AND ORDER**

This matter is before the Court upon the application of Martino O'Bryant for leave to commence this action without prepayment of the filing fee pursuant to 28 U.S.C. § 1915. Upon consideration of the financial information provided with the application, the Court finds that plaintiff is financially unable to pay any portion of the filing fee. As a result, plaintiff will be granted leave to proceed in forma pauperis pursuant to 28 U.S.C. § 1915. Additionally, the Court has reviewed the complaint and will dismiss it pursuant to 28 U.S.C. § 1915(e)(2)(B).

**28 U.S.C. § 1915(e)**

Pursuant to 28 U.S.C. § 1915(e)(2)(B), the Court may dismiss a complaint filed in forma pauperis if the action is frivolous, malicious, fails to state a claim upon which relief can be granted, or seeks monetary relief against a defendant who is immune from such relief. An action fails to state a claim upon which relief can be granted if it does not plead "enough facts to state a claim to relief that is plausible on its face." Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 127 S. Ct. 1955, 1974 (2007).

In reviewing a pro se complaint under § 1915(e)(2)(B), the Court must give the complaint the benefit of a liberal construction. Haines v. Kerner, 404 U.S. 519, 520 (1972). The Court must

also weigh all factual allegations in favor of the plaintiff, unless the facts alleged are clearly baseless. Denton v. Hernandez, 504 U.S. 25, 32-33 (1992); Scheuer v. Rhodes, 416 U.S. 232, 236 (1974).

### **The Complaint**

Plaintiff, a resident at the Metropolitan St. Louis Psychiatric Center, brings this action against Metropolitan St. Louis Psychiatric Center, “John Does,” State of Georgia, Cobb County, Georgia, Marietta, Georgia, Jan King, Richard G. Callahan, U.S. Marshal, and City of St. Louis Metro Police. As the grounds for bringing this action in Federal Court against the State of Missouri, plaintiff states: “Unlawful detainer.” For his statement of claim, he asserts: “Unlawful detainer[,], Defamation of Star Athlete[, and] Handcuff liability law.”

After carefully reviewing plaintiff’s allegations, the Court concludes that the complaint is legally frivolous and fails to state a claim or cause of action. As such, the instant action will be dismissed, without prejudice.

Accordingly,

**IT IS HEREBY ORDERED** that plaintiff’s motion to proceed in forma pauperis is **GRANTED**. [Doc. 2]

**IT IS FURTHER ORDERED** that the Clerk shall not issue process or cause process to issue upon the complaint, because the complaint is legally frivolous and fails to state a claim upon which relief can be granted.

**IT IS FURTHER ORDERED** that plaintiff’s motion to appoint counsel is denied as moot. [Doc. 4]

An appropriate order of dismissal shall accompany this Memorandum and Order.

A handwritten signature in cursive script, appearing to read "Charles A. Shaw", written in black ink.

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**CHARLES A. SHAW**  
**UNITED STATES DISTRICT JUDGE**

Dated this 14th day of January, 2009.